

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RONALD CROSSMAN,

Plaintiff,

v.

CAROLYN COLVIN, Acting Commissioner  
of Social Security Administration,

Defendant.

Case No. 3:15-cv-00249-MMD-WGC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION  
OF MAGISTRATE JUDGE  
WILLIAM G. COBB

Before the Court is Magistrate Judge William G. Cobb's Report and Recommendation ("R&R") (ECF No. 18), regarding Plaintiff Ronald Crossman's Motion for Reversal and/or Remand (ECF No. 12) and Defendant Commissioner's Cross-Motion to Affirm and Opposition to Plaintiff's Motion to Remand (ECF Nos. 15, 16). Judge Cobb recommends granting Plaintiff's motion and denying the Commissioner's cross-motion. (ECF No. 18.) The Commissioner has until June 6, 2016, to object (ECF No. 18). To date, no objection has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

1 Indeed, the Ninth Circuit has recognized that a district court is not required to review a  
2 magistrate judge's report and recommendation where no objections have been filed.  
3 See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the  
4 standard of review employed by the district court when reviewing a report and  
5 recommendation to which no objections were made); see also *Schmidt v. Johnstone*,  
6 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in  
7 *Reyna-Tapia* as adopting the view that district courts are not required to review "any  
8 issue that is not the subject of an objection"). Thus, if there is no objection to a  
9 magistrate judge's recommendation, then the court may accept the recommendation  
10 without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without  
11 review, a magistrate judge's recommendation to which no objection was filed).

12 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in  
13 order to determine whether to adopt the R&R. The R&R finds that the ALJ erred in  
14 determining there was no conflict between the vocational expert's ("VE") testimony and the  
15 Dictionary of Occupational Titles, and such error is not harmless. (ECF No. 18.) The R&R  
16 recommends that the matter be remanded for additional testimony from the VE. Upon  
17 review of the R&R and the records in this case, the Court finds good cause to adopt the  
18 R&R in full.

19 It is hereby ordered that the R&R (ECF No. 18) is accepted and adopted.  
20 Plaintiff's Motion to Remand (ECF No. 12) is granted and the Commissioner's Cross-  
21 Motion to Affirm (ECF No. 15) is denied.

22 It is further ordered that the case is remanded to the ALJ for further proceedings  
23 consistent with the Report and Recommendation (ECF No. 18).

24 The Clerk is directed to enter judgment in accordance with this Order and close  
25 this case.

26 DATED THIS 27<sup>th</sup> day of July 2016.



MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE